



DEPARTMENT OF PUBLIC SAFETY

RULE DRAFT ADDRESSES CERTAIN ADMINISTRATIVE REQUIREMENTS ONLY. NOT ALL TOPICS ARE FULLY DEVELOPED. PROVISIONS RELATING TO COURSE CURRICULUM ARE NOT DEVELOPED.

**** RULE DRAFT IS SUBJECT TO CHANGE ****

DELETED FROM 10/29/2012 DRAFT = ~~STRIKEOUT~~; NEW LANGUAGE = HIGHLIGHT

CHAPTER 7422 MOTORCYCLE ROAD GUARD CERTIFICATE

PART TITLE

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7422.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Applicant.** "Applicant" means a person who is applying for enrollment in the motorcycle road guard certification course.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of public safety, acting directly or through authorized officers or agents.

Subp. 4. **Disqualification or disqualify.** "Disqualification" or "disqualify" is the commissioner's recission of a person's motorcycle road guard certificate.

Subp. 5. **Daytime.** "Daytime" has the meaning given in Minnesota Statutes, section 169.011, subdivision 22

Subp. 6. **Entity.** "Entity" has the meaning given in Minnesota Statutes, section 12.03, subdivision 4e.

Subp. 6 **7. Instructor applicant.** "Instructor applicant" means a person who is applying for a motorcycle road guard instructor certificate.

Subp. 7 **8. Minnesota motorcycle safety center.** "Minnesota Motorcycle Safety Center" means the motorcycle safety education program under Minnesota Statutes, section 121A.36.

Subp. 8 **9. Motorcycle road guard.** "Motorcycle road guard" means a person who holds a valid motorcycle road guard certificate.

Subp. 9 **10. Motorcycle road guard certification course.** "Motorcycle road guard certification course" means a program authorized by the commissioner for the instruction and certification of a motorcycle road guard.

Subp. 10 **11. Motorcycle road guard instructor.** "Motorcycle road guard instructor" means a person who has met the requirements for a motorcycle road



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guard instructor certificate.

Subp. 11 12. Motorcycle road guard instructor certificate.

"Motorcycle road guard instructor certificate" means a certificate issued by the commissioner authorizing a person to instruct the motorcycle road guard certification course.

Subp. 12 13. Qualified prior impaired driving incident. "Qualified prior impaired driving incident" has the meaning given in Minnesota Statutes, section 169A.03, subdivision 22.

Subp. 14 14. Valid motorcycle road guard certificate. "Valid motorcycle road guard certificate" means a certificate that authorizes the person to whom it is issued to perform the duties under part 7422.0200 and is:

- (1) issued by the commissioner;
- (2) not expired; and
- (3) not disqualified.

7422.0200 MOTORCYCLE ROAD GUARD; STATUTORY AUTHORITY; RESTRICTIONS.

Subpart 1. Statutory authority. A motorcycle road guard who is certified by the commissioner is authorized under Minnesota Statutes, section 169.06, subdivision 4 and successor requirements, to:

A. stop and hold vehicles in place until it is safe for vehicles to proceed;

B. act as a flagger escorting a motorcycle group ride; and

C. direct operators of motorcycles within a motorcycle group ride or other vehicle traffic, notwithstanding any contrary indication of a traffic-control device, including stop signs or traffic-control signals;

and must:



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D. obtain consent from the chief of police, or the chief's designee, of any city of the first class through which the group is proceeding; and

E. notify each statutory or home rule charter city through which the motorcycle group is proceeding.

Subp. 2 Requirement to carry certificate. In addition to the requirements in subpart 1, a motorcycle road guard must carry a valid motorcycle road guard certificate at all times and must produce proof of such certificate on demand of a peace officer.

Subp. 23. Restrictions. In order for a motorcycle road guard to escort a motorcycle group ride, the motorcycle group ride must be an organized gathering of motorcyclists of at least 20 motorcyclists that:

A. is sponsored by an entity that has liability insurance in force for all participants of the motorcycle group ride and must produce proof of such insurance on demand of a peace officer;

B. is following a route in accordance with the notification provided under Minnesota Statutes, section 169.06, subdivision 4;

C. is riding only in daytime hours; and

D. complies with the temporary traffic control zone layout provisions of the Minnesota Manual on Uniform Traffic Control Devices, authorized under Minnesota Statutes, section 169.06, subdivision 1.

7422.0300 MOTORCYCLE ROAD GUARD CERTIFICATE; QUALIFICATIONS.

Subpart 1. Statutory requirements. An applicant for a motorcycle road guard certificate must meet the requirements under Minnesota Statutes,



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section 171.60, subdivision 2.

Subp 2. Review of driving record. The commissioner shall review the driving record of an applicant for a motorcycle road guard certificate upon initial application.

- A. An applicant who does not have a Minnesota driver's license shall submit a certified copy of the applicant's driving record from the United States state where applicant is licensed to the commissioner.
- B. An applicant whose Minnesota driving record dates back less than five years from the date of the application must submit a certified copy of the applicant's driving record from the previous jurisdiction in which the applicant was licensed so that the commissioner can review five years of an applicant's driving record.
- C. The commissioner shall accept and review a driving record with fewer than five years in the case where an applicant's age, at the time of an applicant's driver's license issuance, results in a driving record that contains fewer than five years.
- D. A certified copy of a driving record submitted under this part must be dated no earlier than 30 days before the commissioner receives it.

Subp 3. Prior driving convictions, violations, and incidents. No applicant for a motorcycle road guard shall have:

- A. more than two petty misdemeanor convictions for any moving violation under Minnesota Statutes, chapter 169, or a statute from another state in conformity with one



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of these provisions, for 24 months preceding the date of application;

B. any qualified prior impaired driving incident, or a statute from another state in conformity with this provision, for five years preceding the date of application;

C. any conviction under Minnesota Statutes, section 169.13, or a statute from another state in conformity with this provision, for five years preceding the date of application; and

D. any conviction under Minnesota Statutes, section 609.21, or a statute from another state in conformity with this provision.

Subp. 4. **Hearing.** An applicant must be able to speak and hear well enough to conduct a normal verbal conversation with another at a distance of five feet, with or without a hearing aid.

Subp. 5. **Vision.** An applicant must be able to meet the vision requirements to obtain an unrestricted class D license, except that the restriction of corrective lenses enabling the applicant to meet the vision requirement is an acceptable restriction.

Subp. 6. **Vehicle insurance coverage.** An applicant must maintain vehicle insurance coverage pursuant to Minnesota Statutes, section 169.791.

Subp. 7. **Continuing requirements.**

A. Once certified, a motorcycle road guard must:
(1) remain in compliance with subparts 1 through 6;
(2) authorize the commissioner to annually review the motorcycle road guard's driving record; or



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(3) submit a certified copy of the motorcycle road guard's driving record to the commissioner one year after the date of initial certification if the motorcycle road guard is not a Minnesota resident.

B. Any physical or mental disability of a motorcycle road guard that interferes with the safe operation of a motor vehicle under Minnesota Statutes, section 171.04 or 171.13 is governed under parts 7410.2100 to 7410.3000.

7422.0400 MOTORCYCLE ROAD GUARD INSTRUCTOR; QUALIFICATIONS.

Subpart 1. Driver education requirements. In order to instruct the motorcycle road guard certification course, an instructor applicant must:

A. meet the qualifications under part 7411.0620 and part 7411.0630, except that an instructor applicant is not subject part 7411.0620, subpart 8, if the instructor applicant had a criminal history performed within ten years preceding the date of application and the outcome of the check of the national criminal data repository did not indicate a criminal record where the applicant was convicted of a gross misdemeanor or felony.

B. meet the requirements of the motorcycle road guard instructor certificate under part 7422.XXXX [to be developed].

Subp. 2. Appeal. An instructor applicant whose application is denied under part 7411.0620, subpart 8, may appeal the decision of the commissioner under the contested case procedures of Minnesota Statutes, chapter 14.

7422.0500 MOTORCYCLE ROAD GUARD CERTIFICATE ISSUANCE; DISQUALIFICATION.

Subpart 1. Issuance.

A. Upon successful completion of the motorcycle road guard



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course and payment of the program course fee under part 7422.0900 by an applicant, the commissioner shall issue a motorcycle road guard certificate for a period of two years.

~~B. A motorcycle road guard must carry the certificate at all times while performing the duties under part 7422.0200.~~ [MOVED TO PAGE 4, 7422.0200, Subpart 2.]

B. The commissioner shall not renew the certificate once it has expired.

Subp. 2. Disqualification.

A. Once certified, failure of a person who holds a motorcycle road guard certificate to meet any of the requirements under 7422.0300 is cause for the commissioner to disqualify the person's motorcycle road guard certificate.

B. The commissioner shall disqualify the motorcycle road guard certificate of a person who fails to submit a current driving record as required under part 7422.0300, subpart 7 within thirteen months of initial certification.

Subp. 5. **Appeal.** A person whose motorcycle road guard certificate is disqualified under this part may appeal the commissioner's disqualification under the contested case procedures of Minnesota Statutes, chapter 14.

7422.0600 ALCOHOL AND CONTROLLED SUBSTANCES USE PROHIBITION; VIOLATION.

Subpart 1. Prohibition of alcohol consumption and controlled substances use. A person who holds a motorcycle road guard certificate shall



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not perform the duties of a motorcycle road guard, either while operating a motor vehicle or while standing in, or in proximity to, an intersection, under part 7422.0200:

- A. while consuming alcoholic beverages or while using controlled substances; or
- B. after having consumed alcoholic beverages or after having used controlled substances.

Subp. 2. Use of preliminary screening test. When a peace officer has reason to believe that a motorcycle road guard may be violating or has violated subpart 1, the officer may require the driver to provide a sample of the motorcycle road guard's breath for a preliminary screening using a device approved by the commissioner for this purpose.

Subp. 3. Use of preliminary screening test result. Upon a positive test administered under subpart 2 of a motorcycle road guard, or a test refusal of a motorcycle road guard, a peace officer shall:

- A. confiscate the road guard's certificate; and
- B. notify the commissioner

Subp. 4. Administrative disqualification. When the commissioner is notified under subpart 3 that a person who holds a motorcycle road guard certificate has violated this part or that a person who holds a motorcycle road guard certificate has refused a test under subpart 2, the commissioner shall:

- A. disqualify the motorcycle road guard certificate; and
- B. not issue a motorcycle road guard certificate to the person described in this subpart for a period of ten years from the date of disqualification of the motorcycle road guard certificate.



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Subp. 4. **Reason to believe.** For purposes of this part, "reason to believe" means from the manner in which a motorcycle road guard is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, or grounds put forth in good faith which are not arbitrary, irrational, unreasonable, or irrelevant and which make the proposition asserted more likely than not. Grounds upon which reason to believe are based include:

- A. facts or statements supplied by the motorcycle road guard;
- B. driver's license record and accident records;
- C. court documents and police records;
- D. facts of which the peace officer has personal knowledge;
- E. a blood, breath, or urine test indicating the presence of alcohol or controlled substances, or a test refusal.

Subp. 5. **Appeal.** A person whose motorcycle road guard certificate is disqualified under this part may appeal the commissioner's disqualification under the contested case procedures of Minnesota Statutes, chapter 14.

7422.0700. COURSE INSTRUCTION; FREQUENCY.

A. The commissioner shall offer the motorcycle road guard certification course through the Minnesota motorcycle safety center at least once per year.

B. The commissioner shall offer motorcycle road guard instructor certificate training at least once per year.

7422.0800 DATA CLASSIFICATION; USE OF INFORMATION.

Subpart 1. **Data classified.** Data on individuals provided to obtain a motorcycle road guard certificate shall be treated as public data on



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individuals except that the individual's driving record is governed under Minnesota Statutes, section 171.12. For purposes of this part, public data on individuals has the meaning given in Minnesota Statutes, section 13.02, subdivision 15.

Subp.2 Required list. The commissioner shall maintain a list of all persons who are certified as a motorcycle road guard on the department's website. The list must contain only the following information:

- A. full name;
- B. motorcycle road guard certificate number; and
- C. the expiration date of the motorcycle road guard certificate.

7422.0900 COURSE FEE. [TO BE DEVELOPED.]

7422.1000 VEHICLE REQUIREMENTS; RESTRICTIONS.

Subpart 1. Required equipment. A motorcycle or passenger vehicle that is used by a motorcycle road guard in accordance with part 7422.0200 must be in safe operating condition and must be equipped with:

- A. communication device [need to specify];
- B. other items (?)

Subp. 2 Restrictions. A motorcycle or passenger vehicle that is used by a motorcycle guard in accordance with part 7422.0200 must not:

- A. use equipment or lighting for use exclusively by emergency vehicles;
- B. carry equipment that reduces the visibility of the driver or otherwise restricts the driver's ability to safely operate the vehicle; and



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C. contain any passengers under the age of 18.

7422.1100 ROAD GUARD FLAGGING EQUIPMENT; APPAREL REQUIREMENTS.

Subpart 1. Flagging equipment. A motorcycle road guard who is performing traffic control in accordance with part 7422.0200 must use a STOP/SLOW paddle that:

A. has an octagonal shape;

B. is at least 18 inches wide with letters at least 6 inches high;

C. on the STOP face, has white letters and white border on a red background;

D. on the SLOW face, has black letters and a black border on an orange background;

E. is retroreflective; and

F. is fastened to a staff that is a minimum of 60 inches in length.

G. A collapsible STOP/SLOW paddle that meets the requirements of items A through F may be used.

Subp. 2. Required high-visibility safety apparel. A motorcycle road guard must wear the following high visibility apparel when acting as a flagger and performing traffic control in accordance with part 7422.0200:

A. a safety vest; and

B. safety pants during low visibility situations, low light conditions, or inclement weather.

C. The apparel in items A and B must be orange-red, fluorescent yellow-green, or a combination of the two as defined in the ANSI standard.

D. The retroreflective material of the apparel in items



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A and B must be orange, yellow, white, silver, yellow-green, or a fluorescent version of these colors and must be visible at a minimum distance of 1,000 feet.

E. A shirt or jacket may be substituted for a vest provided that it meets the color and visibility requirements of this subpart.

Subp. 3. ANSI/ISEA 107-2004 requirement. A motorcycle road guard who is acting as a flagger and performing traffic control in accordance with part 7422.0200 must wear high-visibility safety apparel that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107-2004 publication entitled "American National Standard for High-Visibility Apparel and Headwear" and labeled as meeting the ANSI 107-2004 standard performance for Class 2 or 3 risk exposure. For the purposes of this part, "ANSI 107-2004 standard" means the standard for the design and performance of high visibility safety apparel that is developed by the International Safety Equipment Association and published by the American National Standards Institute. This standard is not subject to frequent change. A copy of the standard is available at the Department of Public Safety, 445 Minnesota Street, Suite 1000, Saint Paul, Minnesota 55101 or on the Internet at [LIST URL].